

Senate File 355 - Introduced

SENATE FILE _____
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BEALL, SCHOENJAHN, and SENG

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to wind energy by establishing a community-based
2 wind energy program and a community-based energy project
3 study.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2407SS 82
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1 1 Section 1. NEW SECTION. 476.48 COMMUNITY=BASED WIND
2 ENERGY PROGRAM.
1 3 1. DEFINITIONS. For purposes of this section, unless the
1 4 context otherwise requires:
1 5 a. "Community-based wind energy project" means a new wind
1 6 energy generation project approved by the division which
1 7 satisfies the requirements of subsection 3.
1 8 b. "Community-based wind energy project developer" means a
1 9 qualifying owner of a community-based wind energy project, or
1 10 a nonqualifying owner or nonowner involved in a joint venture
1 11 with a qualifying owner.
1 12 c. "Community-based wind energy tariff" means a tariff
1 13 established by the board to facilitate the development of
1 14 community-based wind energy projects.
1 15 d. "Net present value rate" means a rate equal to the net
1 16 present value of the nominal payments to a project divided by
1 17 the total expected energy production of the project over the
1 18 life of its power purchase agreement.
1 19 e. "Power purchase agreement" means an agreement
1 20 negotiated between an electric utility and a qualifying owner
1 21 to purchase energy generated from a community-based wind
1 22 energy project.
1 23 f. "Qualifying owner" means a resident of this state who
1 24 is:
1 25 (1) Any of the following as defined in section 9H.1:
1 26 (a) An authorized farm corporation.
1 27 (b) An authorized limited liability company.
1 28 (c) An authorized trust.
1 29 (d) A family farm corporation.
1 30 (e) A family farm limited liability company.
1 31 (f) A family trust.
1 32 (g) A revocable trust.
1 33 (h) A testamentary trust.
1 34 (2) A small business as defined in section 15.102.
1 35 (3) A cooperative association organized pursuant to
2 1 chapter 497 or a limited liability company organized pursuant
2 2 to chapter 490A whose shares and membership are held by an
2 3 entity that is not prohibited from owning agricultural land
2 4 under chapter 9H.
2 5 (4) A political subdivision of this state, including but
2 6 not limited to a city, county, township, school district,
2 7 community college, area education agency, institution under
2 8 the control of the state board of regents, or any other local
2 9 or regional governmental organization such as a board,
2 10 commission, or association, or a tribal council.

2 11 g. "Standard reliability criteria" means that the energy
2 12 produced can be safely interconnected with an electric utility
2 13 without causing any adverse or unsafe consequences and is
2 14 consistent with the electric utility's resource needs.

2 15 h. "Wind energy conversion system" means the same as a
2 16 wind energy conversion facility as defined in section 476C.1.

2 17 2. PROGRAM ESTABLISHED. The utilities division shall
2 18 establish a community-based wind energy program to optimize
2 19 local, regional, and state benefits from wind energy and to
2 20 facilitate widespread development of community-based wind
2 21 energy projects throughout this state.

2 22 3. QUALIFICATIONS == APPROVAL. A qualifying owner or
2 23 owners of a proposed community-based wind energy project or a
2 24 community-based wind energy project developer or developers
2 25 may submit an application to the department indicating the
2 26 following:

2 27 a. For a wind energy conversion system consisting of less
2 28 than three wind turbines, ownership entirely by one or more
2 29 qualifying owners with at least fifty-one percent of the total
2 30 financial benefits over the life of the project flowing to the
2 31 qualifying owners.

2 32 b. For a wind energy conversion system consisting of three
2 33 or more wind turbines, ownership by a single qualifying owner
2 34 of no more than fifteen percent of the project.

2 35 c. Approval by the county board of supervisors in each
3 1 county in which the project is to be located, or in the case
3 2 of a project located within the boundaries of a reservation,
3 3 the tribal council for that reservation.

3 4 d. A copy of a power purchase agreement with an electric
3 5 utility at a tariff rate approved by the board.

3 6 e. Evidence of a good-faith attempt to provide in writing
3 7 an opportunity to participate in the project to each property
3 8 owner in a county or counties in which the project is located
3 9 on whose property a high-voltage transmission line is
3 10 constructed that will transmit the energy generated by the
3 11 community-based wind energy development project to an electric
3 12 utility.

3 13 4. COMMUNITY-BASED WIND ENERGY PROJECT TARIFF == RATE.

3 14 a. The board shall establish a community-based wind energy
3 15 project tariff at a minimum rate of two and nine-tenths cents
3 16 per kilowatt-hour net present value rate over the twenty-year
3 17 duration of a power purchase agreement negotiated between an
3 18 electric utility and a qualifying owner or community-based
3 19 wind energy project developer. A power purchase agreement may
3 20 provide for a higher rate than the tariff rate, if agreed to
3 21 by the electric utility and a qualifying owner or owners or a
3 22 community-based wind energy project developer as provided in
3 23 subsection 5. The board shall establish the minimum tariff
3 24 rate at a higher rate for the first ten years of the power
3 25 purchase agreement than in the last ten years of the power
3 26 purchase agreement. The discount rate required to calculate
3 27 the net present value shall be that discount rate used by the
3 28 electric utility for other purposes in the ordinary course of
3 29 the electric utility's business. The tariff established by
3 30 the board pursuant to this subsection shall be at a sufficient
3 31 rate to provide an incentive for the development of
3 32 community-based wind energy projects.

3 33 b. An electric utility other than a utility referred to in
3 34 paragraph "c" shall, by December 1, 2007, file a tariff
3 35 conforming to the requirements of paragraph "a" with the board
4 1 for approval by the board. Approval criteria shall be
4 2 developed by the board by rule.

4 3 c. A municipal utility, an electric public utility having
4 4 fewer than ten thousand customers, or an electric cooperative
4 5 corporation and association shall, within ninety days of the
4 6 first approval received by an electric utility pursuant to
4 7 paragraph "b", adopt a tariff conforming to the requirements
4 8 of paragraph "a".

4 9 d. The board shall provide notice and an opportunity for a
4 10 public hearing regarding a proposed tariff rate filed by an
4 11 electric utility pursuant to paragraph "b" prior to approval
4 12 or denial of the proposed rate. The board shall publish the
4 13 date, time, and location of the hearing in a newspaper of
4 14 general circulation in the locality of the proposed
4 15 community-based wind energy project at least thirty days prior
4 16 to the scheduled hearing.

4 17 5. UTILITY PARTICIPATION == PROJECT SIZE.

4 18 a. Electric utilities filing tariffs pursuant to
4 19 subsection 4, paragraphs "b" and "c", shall establish one or
4 20 more community-based wind energy projects. The board shall
4 21 specify by rule requirements relating to the number of

4 22 projects to be established by category of electric utility,
4 23 and shall require at a minimum that all utilities with
4 24 existing renewable energy generation capacity shall have
4 25 community-based wind energy projects comprising at least
4 26 thirty-five percent of their total renewable energy generation
4 27 sources by 2012.

4 28 b. Community-based wind energy projects established
4 29 pursuant to this chapter shall be subject to a maximum project
4 30 size of twenty megawatts.

4 31 6. COMMUNITY-BASED WIND ENERGY PROJECT DEVELOPER ==
4 32 NONQUALIFYING OWNER. A community-based wind energy project
4 33 developer may represent a qualifying owner or owners of a
4 34 community-based wind energy project in negotiating a power
4 35 purchase agreement and tariff pursuant to subsection 4. If a
5 1 community-based wind energy developer is a nonqualifying owner
5 2 or a nonowner of a project participating in a joint venture
5 3 with one or more qualifying owners, the tariff established in
5 4 subsection 4 shall apply only to that portion of the wind
5 5 energy produced that is directly proportional to the equity
5 6 share of the project owned by the qualifying owner or owners.

5 7 7. POWER PURCHASE AGREEMENTS == TRANSFER OF OWNERSHIP.
5 8 a. The board shall by rule establish a mechanism whereby a
5 9 qualifying owner or owners of a community-based wind energy
5 10 project shall secure performance under a power purchase
5 11 agreement.

5 12 b. A power purchase agreement shall be based upon standard
5 13 reliability criteria.

5 14 c. Transfer of a community-based wind energy project by a
5 15 qualifying owner or owners to a nonqualifying owner during the
5 16 initial twenty years of the agreement shall be prohibited.

5 17 8. RULES. The board may adopt rules pursuant to chapter
5 18 17A for the administration and enforcement of this section.

5 19 Sec. 2. NEW SECTION. 476.49 COMMUNITY-BASED ENERGY
5 20 PROJECTS == ASSESSMENT STUDY.

5 21 1. For purposes of this section:
5 22 a. "Alternative energy source" means a solar, waste
5 23 management, resource recovery, refuse-derived fuel,
5 24 agricultural crop or residue, or woodburning facility, and
5 25 additional sources other than wind energy if identified by the
5 26 department.

5 27 b. "Community-based energy project" means a project
5 28 involving one or more qualifying owners or community-based
5 29 wind energy project developers as defined in section 476.48,
5 30 subsection 1, involving an alternative energy source other
5 31 than wind energy for the production of electricity and
5 32 consisting of a generation facility of no more than ten
5 33 megawatts of interconnected capacity.

5 34 2. The utilities division shall conduct a community-based
5 35 energy project assessment study. The goal of the study shall
6 1 be to determine the potential for the development of
6 2 community-based energy projects throughout this state for
6 3 interconnection with an electric utility for service to retail
6 4 electric customers.

6 5 3. Each electric utility subject to regulation or
6 6 regulatory action pursuant to this chapter shall participate
6 7 in the study by conducting a local assessment within its area
6 8 of service to retail electricity customers. Assessment
6 9 objectives shall include identification of the following, at a
6 10 level of detail which would suffice in an application for a
6 11 certificate of public convenience, use and necessity issued
6 12 pursuant to section 476A.6:

6 13 a. The general location of each electric substation that
6 14 has transformer secondary voltage of at least thirty-four and
6 15 five-tenths kilowatts.

6 16 b. The potential amount of capacity that could reasonably
6 17 be developed at each substation identified in paragraph "a"
6 18 considering land use constraints and other site-specific
6 19 characteristics.

6 20 c. Enhancements to existing transformers and transmission
6 21 infrastructure needed to optimize efficient use in
6 22 interconnecting community-based energy projects.

6 23 d. The location of community-based energy enhancement
6 24 zones in geographic areas where the cumulative potential for
6 25 community-based energy project development is sufficient to
6 26 justify the construction of transformer and transmission
6 27 infrastructure enhancements in anticipation of future
6 28 projects.

6 29 4. Each electric utility participating in the study shall
6 30 establish stakeholder groups comprised of community
6 31 representatives and interested parties to provide input into
6 32 the scope and nature of the assessment and to subsequently

6 33 review assessment results. The utilities division shall
6 34 select an independent engineering firm to provide technical
6 35 support to the stakeholder groups.

7 1 5. A preliminary assessment report shall be submitted by
7 2 each electric utility participating in the study to the
7 3 utilities division by October 1, 2008. Assessment updates
7 4 regarding community-based energy projects undertaken, related
7 5 transmission infrastructure construction, additional
7 6 construction needs, and a map showing the location and thermal
7 7 megawatt loading rating of each electric substation in the
7 8 electric utility's service area shall be provided by each
7 9 electric utility by October 1 annually.

7 10 6. Based on the assessment reports, the utilities division
7 11 shall establish a process for identification of priority
7 12 community-based energy projects of twenty-five megawatts of
7 13 capacity or less, and establish standards to assure their
7 14 prompt and orderly interconnection. The process shall
7 15 incorporate the following components:

7 16 a. Assigning top priority to community-based energy
7 17 projects with a completed power purchase agreement in place
7 18 and a demonstration of financial feasibility.

7 19 b. Conducting of a feasibility analysis for a proposed
7 20 community-based energy project.

7 21 c. Developing a standardized interconnection agreement
7 22 that sets forth the contractual conditions under which a
7 23 company and a customer agree that one or more facilities may
7 24 be interconnected within the company's utility system.

7 25 d. Developing a standardized application form and process
7 26 for interconnection and parallel operation with the utility
7 27 system.

7 28 e. Establishing reasonable terms and conditions to ensure
7 29 the reliable, safe, and efficient operation of interconnected
7 30 equipment.

7 31 f. Assigning interconnection costs relating to
7 32 community-based energy projects in an equitable manner.

7 33 g. Providing for a low-cost, orderly, safe, standardized,
7 34 and expedited construction process for interconnection with
7 35 electric utilities, and providing for damage payments to
8 1 interconnecting projects if construction schedules are
8 2 delayed.

8 3 h. Requiring an electric utility to which a priority
8 4 community-based energy project would interconnect to submit
8 5 information to the board relating to transmission system
8 6 enhancements needed to facilitate the interconnection.

8 7 7. The utilities division shall submit a report
8 8 summarizing the results of the individual electric utility
8 9 assessments, the potential for community-based energy project
8 10 development in the state, the projected energy-generating
8 11 capacity anticipated to result, recommendations regarding
8 12 enhancements to existing transformers and transmission
8 13 infrastructure needed to promote community-based energy
8 14 projects, and the project prioritization procedures developed
8 15 to the members of the general assembly by January 1, 2009.
8 16 Updated reports shall thereafter be prepared and submitted by
8 17 January 1 annually.

8 18 EXPLANATION

8 19 This bill establishes procedures to encourage the
8 20 development of community-based energy projects.

8 21 The bill creates a community-based wind energy program
8 22 within the utilities division of the department of commerce,
8 23 with the goal of optimizing local, regional, and state
8 24 benefits from wind energy and facilitating the development of
8 25 community-based wind energy projects throughout the state. A
8 26 community-based wind energy project involves a new wind energy
8 27 conversion system consisting of less than three wind turbines
8 28 and owned by one or more qualifying owners with at least 51
8 29 percent of the total financial benefits over the life of the
8 30 project flowing to the qualifying owners, or a wind energy
8 31 conversion system consisting of three or more wind turbines
8 32 with ownership by a single qualifying owner of no more than 15
8 33 percent of the project. The bill includes a comprehensive
8 34 list of individuals, business organizations, and political
8 35 subdivisions within the definition of "qualifying owner", and
9 1 provides for the involvement of a community-based wind energy
9 2 project developer who may be a nonqualifying owner or a
9 3 nonowner of a project involved in a joint venture with one or
9 4 more qualifying owners.

9 5 The bill provides that pursuant to the program, the Iowa
9 6 utilities board would establish a minimum tariff containing a
9 7 rate of at least 2.9 cents per kilowatt-hour net present value
9 8 rate over the 20-year duration of a power purchase agreement

9 negotiated between an electric utility and a qualifying owner
9 10 or developer. Each electric utility is required to establish
9 11 a rate at least equal to the tariff, and in the case of an
9 12 electric utility other than a municipal utility, an electric
9 13 public utility having fewer than 10,000 customers, or an
9 14 electric cooperative corporation and association, submit the
9 15 proposed rate to the board for approval. Notice and an
9 16 opportunity for a hearing shall be provided prior to action by
9 17 the board on a tariff application. A power purchase agreement
9 18 may provide for a higher rate than the tariff rate, if agreed
9 19 to by the parties. The bill states that the rate established
9 20 by the board shall be at a level sufficient to serve as an
9 21 incentive for the development of community-based wind energy
9 22 projects.

9 23 The bill specifies an application procedure for a
9 24 community-based wind energy project, whereby an application is
9 25 submitted to the utilities division along with a copy of a
9 26 power purchase agreement with an electric utility at a tariff
9 27 rate approved by the board, evidence of approval of the
9 28 project by the county board of supervisors, and evidence of a
9 29 good-faith attempt to notify property owners on whose property
9 30 a high-voltage transmission line would be constructed to
9 31 transmit energy generated by a wind energy development project
9 32 of an opportunity to participate in the project. The bill
9 33 provides that a power purchase agreement, if approved, shall
9 34 be secured by a qualifying owner or owners, and that it shall
9 35 reflect standard reliability criteria as defined in the bill.
10 1 The bill contains prohibitions against transfer of ownership,
10 2 and provides for the adoption of rules by the utilities
10 3 division or the board.

10 4 The bill requires electric utilities filing tariffs
10 5 pursuant to the bill's provisions to establish one or more
10 6 community-based wind energy projects. The Iowa utilities
10 7 board shall specify by rule the number of projects to be
10 8 established by category of electric utility, and shall require
10 9 at a minimum that all utilities with existing renewable energy
10 10 generation capacity shall have community-based wind energy
10 11 projects comprising at least 35 percent of their total
10 12 renewable energy generation sources by 2012. The bill also
10 13 establishes a maximum project size of 20 megawatts.

10 14 The bill also provides for a community-based energy project
10 15 assessment study to be conducted by the utilities division,
10 16 with the goal of determining the potential for the development
10 17 of community-based energy projects throughout the state for
10 18 interconnection with an electric utility for service to retail
10 19 electric customers. The bill provides that the
10 20 community-based energy projects would involve alternative
10 21 energy sources, defined in the bill to include solar, waste
10 22 management, resource recovery, refuse-derived fuel,
10 23 agricultural crop or residue, or woodburning facilities, and
10 24 additional sources other than wind energy if identified by the
10 25 department. The bill references the definition of qualifying
10 26 owners and community-based energy project developers
10 27 applicable to community-based wind energy projects as
10 28 potential owners assessed in the study, and provides that a
10 29 community-based energy project shall involve an alternative
10 30 energy source other than wind energy for the production of
10 31 electricity and consisting of a generation facility of no more
10 32 than 10 megawatts of interconnected capacity.

10 33 The bill provides that an electric utility subject to
10 34 regulation or regulatory action pursuant to Code chapter 476
10 35 shall participate in the study by conducting a local
11 1 assessment within its area of service to retail electricity
11 2 customers. Several assessment objectives are identified, to
11 3 be assessed by the electric utility at a level of detail
11 4 appropriate in an application for a certificate of public
11 5 convenience, use and necessity issued pursuant to Code section
11 6 476A.6. The bill requires each electric utility participating
11 7 in the study to establish stakeholder groups comprised of
11 8 community representatives and interested parties to provide
11 9 input, and provides that the utilities division shall select
11 10 an independent engineering firm to provide technical support.
11 11 A preliminary assessment report is required to be submitted
11 12 by each utility to the utilities division by October 1, 2008,
11 13 with annual updates thereafter. The bill provides that based
11 14 on the assessment reports, the utilities division shall
11 15 establish a process for identification of priority
11 16 community-based energy projects of 25 megawatts of capacity or
11 17 less, and establish standards to assure their prompt and
11 18 orderly interconnection. The bill further requires the
11 19 department to submit a report summarizing the results of the

11 20 individual electric utility assessments, the potential for
11 21 community-based energy project development in the state, the
11 22 projected energy-generating capacity anticipated to result,
11 23 recommendations regarding enhancements to existing
11 24 transformers and transmission infrastructure needed to promote
11 25 community-based energy projects, and project prioritization
11 26 procedures, to the members of the general assembly by January
11 27 1, 2009, with the submission of updated reports annually
11 28 thereafter.
11 29 LSB 2407SS 82
11 30 rn:rj/gg/14.1